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KERALA GAZETTE

EXTRAORDINARY

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CONTENTS.

Proposals regarding splitting up of Two-Member Constituencies.

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ELECTION COMMISSION, INDIA

NOTIFICATION

New Delhi, the 15th March, 1961.

In pursuance of clause (a) of Section 4 of the Two-Member Constituencies (Abolition) Act, 1961, the Election Commission hereby publishes its proposals in regard to the matters mentioned in Section 3 of the Act as respects the State of Kerala and specifies the 10th April, 1961, as the date on or after which the proposals will be further considered by it.

Any objections or suggestions in regard to these proposals should reach the Secretary of the Election Commission (1, Aurangzeb Road, New Delhi-11) before the said date. It would facilitate prompt consideration if they are in English.

Proposals

In the State of Kerala, there are 11 two-member assembly constituencies in each of which one seat is reserved for the scheduled castes, one two-member assembly constituency in which one seat is reserved for the scheduled tribes and two two-member parliamentary constituencies with one seat reserved for the scheduled castes in each. Under section 3 of the Two-Member Constituencies (Abolition) Act, 1961, each of these constituencies is to be divided into two single-member constituencies. These shall, as far as practicable, be geographically compact areas, and in delimiting them, regard shall be had to physical features, existing boundaries of administrative units, facilities of communication and public convenience. The said section further provides that the seat for the scheduled castes or the scheduled tribes shall be reserved in that one of the two single-member constituencies, which, in the opinion of the Election Commission, has the greater concentration of population of the scheduled castes or, as the case may be, of the scheduled tribes.

2. Having regard to these provisions, it is proposed to divide the two-member assembly and parliamentary constituencies and to reserve seats for the scheduled castes and scheduled tribes as shown in the following statement. The serial number, name and extent of each two-member constituency as given in the Delimitation of Parliamentary and Assembly Constituencies Order, 1956, are set out in the first two columns of the statement for facility of reference. The seat in any constituency after whose name the brackets and letters "(SC)" or "(ST)" appear in the third column will be reserved for the scheduled castes in the former case and for the scheduled tribes in the latter case.

Existing Two-Member Constituency		*Proposed Single-Member Constituencies*	
S. No. and Name	*Extent*	*S. No. and Name*	*Extent*
	I. Assembly constituencies		
11. Varkala (SC)	Chīrayinkil taluk (excluding Attingal town and Azhur, Chirayinkil-Sarkara, Keezhvalam-Koonthaloor, Idacode, Attingal, Avanavancherry, Alamcode, Ilampa and Mudakkal villages).	11. Varkala	Kadakkavur, Vettur-Cherunniyoor, Varkala, Edava, Ayiroor and Chemmaruthy villages in Chirayinkil taluk.
		11 A. Kilimanoor (SC)	Keezhattingal, Manampoor, Ottoor, Navaikulam, Pallickal, Madavoor, Kilimanoor, Vellaloor, Karavaram, Nagaroor, Koduvazhannur, Pulimath and Pazhayakunnumel villages in Chirayinkul taluk.
14. Thrikkadavur (SC)	Quilon taluk (excluding Paravoor, Poothakulam, Eravipuram, Mayyanad, Meenad, Kalluvathukkal, Vadakkevila and Quilon villages and Quilon town); and Thekkumbhagam village in Karunagapally taluk	14. Thrikkadavur	Kilikollur, Thrikkadavur, Thrikkaruva, Perinad and Munroe Island villages in Quilon taluk and Thekkumbagam village in Karunagapally taluk.
		14A. Kottamkara (SC)	Adichanallur, Thrikkovilvattom, Nedumpana, Kottamkara, Mulavana and East Kallada villages in Quilon taluk.

Existing Two-Member Constituency		Proposed Single-Member Constituencies	
S. No. and Name	*Extent*	*S. No. and Name*	*Extent*
20. Mavelikara (SC)	Mavelikara taluk (excluding Perungala and Pandalam south villages).	20. Mavelikara	Mavelikara taluk (excluding Perungala, Pandalam south, Bharanikavu, Vallikunnam, Thamarakulam, Nooranad, Tonnallur and Palamel villages).
		20 A. Bharanikavu (SC)	Bharanikavu, Vallikunnam, Thamarakulam, Nooranad, Tonnallur and Palamel villages in Mavelikara taluk.
21. Kunnathur (SC)	Kunnathur taluk; and Pandalam South village in Mavelikara taluk.	21. Adoor	Erathu, Adoor, Ezhamkulam, Koduman, Angadikal, Enadimangalam and Koodal villages in Kunnathur taluk; and Pandalam South village in Mavelikara taluk.
		21.A. Kunnathur (SC)	West Kallada, Sasthamcottah, Sooranad South, Sooranad North, Porvazhi, Pallickal, Peringanad, Kadambanad and Kunnathur villages in Kunnathur taluk.

48. Devicolam (SC)	Devicolam, Udumbanchola and Peermade taluks.	48. Peermade	Peermade taluk; and Pambadumpara, Vandanmedu, Chakkupallam and Ayyappancoil villages in Udumbanchola taluk.
		48A. Devicolam (SC)	Devicolam taluk; and Udumbanchola taluk (excluding Pampadumpara, Vandanmedu, Chakkupallam and Ayyappancoil villages).
64. Chalakudy (SC)	Thirumukkulam, Kakkulisseri, Kuruvilasseri, Alathur, Kallur, Thekkemuri, Kallur Vadakkummuri, Kizhakkemuri, Muringur Thekkummuri, Muringur Vadakkummuri, Kizhakke Chalakudy, Padinjare Chalakudy, Annallur, Thazhakkad, Alur, Perampra, Potta, Elanjipara, Melur, Pariyaram, Kodasseri, Kodakkara, Nellayi, Mattathur, Mupliyam, Nandipulam, Chengallur, Thorava, Varandarapalli, Amballur, Trikkur and Kallur villages, Chalakudy town and forest area in Mukundapuram taluk.	64. Chalakudy	Chalakudy town and Thirumukkulam, Kakkulisseri, Kuruvilasseri, Alathur, Kallur Vadakkummuri, Annallur, Thazhakad, Alur, Perampra, Potta, Padinjare Chalakudy, Kizhakke Chalakudy, Muringur Vadakkummuri, Elanjipara, Melur, Muringur Thekkummuri, Kallur Thekkummuri and Kizhakkummuri villages in Mukundapuram taluk.
		64A. Amballur (SC)	Kodakara, Nellayi, Chengallur, Thorava, Amballur, Kallur, Trikkur, Varandarapally Muppiliyam, Nandipulam, Mattathur, Kodasseri and Pariyaram villages, and the forest area in Mukundapuram taluk.

Existing Two-Member Constituency S. No. and Name	Extent	Proposed Single-Member Constituencies S. No. and Name	Extent
70. Wadakkancherry (SC)	Talappally taluk (excluding Kunnamkulam town and Alur, Kandanasseri, Arthat, Anjur, Kunnamkulam, Chovvannur, Chemmanthitta, Kanipayyur, Chundal, Eranallur, Chiranallur, Velur and Kiralur villages)	70. Wadakkancherry	Katakampal, Mangad, Pazhanji, Porkulam, Agatiyur, Karikkad, Kadavallur, Perumpilavu, Chiramangad, Eyyal, Vellatanjur, Vellarakad, Kadangot, Kariyannur, Tayyur, Nelluvaya, Trichur, Arangottukara, Pallur, Talasseri, Desamangalam, Pilakkad, Varavur, Kanjirakode, Chittanda, Kottapuram, Wadakkancherry, Puduruthy, Mundathicode, Parlikad, Peringandoor and Minaloor villages in Talappally taluk.
		70A. Pazhayannur (SC)	Thekkumkara, Karumathara, Enakkad, Kumaranellur, Mulloorkara, Attoor, Nedumpura, Cheruthuruthy, Panjal, Thonoorkara, Chelakkara, Karumala, Virupakka, Manalithara, Pangarappilly, Killimangalam, Pynkulam, Venganalloor, Mayanoor, Kondazhi, Chelacode,

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			Pulacode, Elanad, Vennoor, Pazhayannoor, Vadakkethara Kaniyarcode, Pampadi, and Thiruvillwamala villages and Machad Hills, in Talappally taluk.
74. Ponnani (SC)	Ponnani and Trithala firkas; and such of the villages in Andathodu firka as are specified in item (3) of the Appendix in Ponnani taluk	74. Ponnani	Ponnani firka and Alamcode and Marancheri amsoms in Andathodu firka in Ponnani taluk.
		74A. Trithala (SC)	Trithala firka; and such of the villages in Andathodu firka as are specified in item (3) of the Appendix in Ponnani taluk
77. Chittur (SC)	Chittur taluk of Trichur district; and Kollengode firka (excluding the villages specified in item (5) of the Appendix) in Palghat taluk of Malabar district.	77. Chittur	Chittur taluk (excluding Thiruvazhiad, Kairadi, Ayloor, Vallanghi, Pothundi and Nemmara villages and the forest area).
Revised descriptions:	Chittur taluk; and Kollengode firka (excluding the villages specified in item (5) of the Appendix, in Palghat taluk.	77A. Kollengode (SC)	Kollengode firka (excluding the villages specified in item (5) of the Appendix) and Thiruvazhiyad, Kairadi, Ayloor, Vallanghi, Pothundy and Nemmara villages and the forest area, in Chittur taluk.

Existing Two-Member Constituency S. No. and Name	Extent	Proposed Single-Member Constituencies S. No. and Name	Extent
91. Manjeri (SC)	Manjeri and Wandur firkas in Ernad taluk.	91. Manjeri	Manjeri firka and Chathangottupuram, Chembrasseri and Pandikkad villages in Wandur firka in Ernad taluk.
		91.A. Wandur (SC)	Wandur firka (excluding Chathangottupuram, Chembrasseri and Pandikkad villages) in Ernad taluk.
103. Wynad (ST)	Wynad taluk; and such of the villages in Kuthuparamba firka as are specified in item (15) of the Appendix in Kottayam taluk.	103. North Wynad	North Wynad taluk and such of the villages in Kuthuparamba firka as are specified in item (15) of the Appendix in Tellicherry taluk.
		103A. South Wynad (ST)	South Wynad taluk.
Revised descriptions:	North Wynad taluk, and such of the villages in Kuthuparamba firka as are specified in item (15) of the Appendix in Tellicherry taluk, in Cannanore district; and south Wynad taluk in Kozhikode district.		

111. Nileswar (SC)	Payyanur firka and such of the villages in Taliparamba firka as are specified in item (19) of the Appendix in Chirakkal taluk; and Nileswar firka in Kasargod taluk.	111. Payyannur	Payyannur firka (excluding Karivallur village), and such of the villages in Taliparamba firka as are specified in item (19) of the Appendix, in Taliparamba taluk.
Revised description:	Payyannur firka and such of the villages in Taliparamba firka as are specified in item (19) of the Appendix in Chirakkal taluk; and Nileswar firka in Hosdrug taluk.	111A. Nileswar (SC)	Nileswar firka in Hosdrug taluk; and Karivallur village in Payyannur firka in Taliparamba taluk.

II—Parliamentary Constituencies.

151. Quilon (SC)	Quilon, Karunagappally, Mavelikara, Kunnathur and Pathanapuram taluks, Mailam, Melila and Vettikavala villages in Kottarakara taluk, Kayamkulam town, Pudupally, Kayamkulam, Kandallur, Arattupuzha, Muthukulam, Keerikad and Pathiyoor villages in Karthigappally taluk, and Thiruvanvandur, Pandanad, Vadakkekara, Puliyoor, Ala, Cherianad, Chengannur, Mannar and Kurattisseri villages in Chengannur taluk of Quilon district.	151. Quilon	Quilon and Karunagapally taluks in Quilon district; Kayamkulam town and Pudupally, Kayamkulam, Kandallur, Arattupuzha, Muthukulam, Pathiyoor and Keerikad villages in Karthigapally taluk; and Perungala village in Mavelikara taluk, of Alleppey district.
		151A. Mavelikara (SC)	Kunnathur and Pathanapuram taluks, Mailam, Melila and Vettikavala villages in Kottarakara taluk in Quilon district; Mavelikara taluk (excluding Perungala

Existing Two-Member Constituency S. No. and Name	Extent	Proposed Single-Member Constituencies S. No. and Name	Extent
Revised description:	Quilon, Karunagapally, Pathanapuram and Kunnathur taluks and Mailam, Melila and Vettikavala villages in Kottarakara taluk, of Quilon district; Mavelikara taluk, and Kayamkulam town, Pudupally, Kayamkulam, Kandallur, Arattupuzha, Muthukulam, Keerikad and Pathiyoor villages in Karthigapally taluk; and Thiruvanvandur, Pandanad, Vadakkekara, Puliyoor, Ala, Cherianad, Chengannur, Mannar and Kurattisseri villages in Chengannur taluk of Alleppey district.		village) and Thiruvanvandur, Pandanad, Vadakkekara, Puliyoor, Ala, Cherianad, Chengannur, Mannar and Kurattisseri villages in Chengannur taluk of Alleppey district.
159. Palghat (SC)	Ponnani and Palghat taluks, and Ottapalam and Pattambi firkas and such of the villages in Mannarghat firka as are specified in item (10) of the Appendix in	159. Ponnani	Ponnani taluk and Ottapalam and Pattambi firkas in Ottapalam taluk, of Palghat district; and Chowghat taluk of Trichur district.

Walluvanad taluk, in Malabar district; and Chittur taluk of Trichur district.

159A. Palghat(SC)

Palghat, Alathur and Chittur taluks and such of the villages in Mannarghat firka as are specified in item (10) of the Appendix in Perintalmanna taluk, of Palght district.

Revised description

Ponnani, Palghat and Chittur taluks; and Ottapalam and Pattambi firkas in Ottapalam taluk, and such of the villages in Mannarghat firka as are specified in item (10) of the Appendix, in Perinthalmanna taluk of Palghat district; and Chowghat taluk of Trichur District.

APPENDIX

Assembly Constituencies

(3)

Villages in Andathodu firka in Ponnani taluk included in Trithala assembly constituency.

1. Pallikara
2. Nannamukku
3. Othallur

(15)

Villages in Kuthuparamba firka in Tellicherry taluk, included in North Wynad assembly constituency.

1. Thundiyil
2. Kappat
3. Manathana
4. Puthalam
5. Kommeri
6. Alacheri
7. Poyilur
8. Vilakothur
9. Muringode
10. Vellarvalli
11. Kunithala
12. Thiruvonpram
13. Vekkalam
14. Tholambra
15. Kolayat
16. Edayar
17. Kannavam
18. Panambetta
19. Idumba
20. Vattoli
21. Thodikulam
22. Modapathur
23. Chittariparamba
24. Poovathur
25. Cheruvanchery
26. Nirveli
27. Ayithara
28. Kaideri
29. Kandankunnu

30. Mambram
31. Triprangothur
32. Meruvanbayi
33. Peravur
34. Vayanur
35. Kothimanga
36. Pozhari
37. Puzhiod
38. Peruva

(19)

Villages in Taliparamba firka in Taliparamba taluk included in Payyannur assembly constituency.

1. Thimuri
2. Talavil
3. Arangam
4. Thadikadvu
5. Chapparapadam
6. Naduvil
7. Kolathur
8. Chuzhali
9. Irringal
10. Panangathur
11. Mavecheri
12. Panniyur
13. Koonam
14. Poomangalam
15. Mazhur
16. Kunhirangad
17. Thalora
18. Vellara
19. Padappengad
20. Kooveri
21. Cheniyur
22. Kuttiyeri
23. Vayat
24. Tiruvallur
25. Pacheni
26. Pariyaram
27. Mukkunnum
28. Panakkad
29. Kuppam
30. Taliparamba
31. Kanichamal

TABLE—(*contd.*)

Category.	*Method of recruitment.*
2. Assistant Labour Officer, Grade II	Direct recruitment; or promotion from category 3 (Welfare Assistant); or recruitment by transfer from among Upper Division Clerks of the Kerala Ministerial Service employed in the Department. *Note*—Appointments by direct recruitment, promotion and transfer shall be made in the ratio of 1 : 1 : 1.
3. Welfare Assistant	Direct recruitment or recruitment by transfer from among Lower Division Clerks of the Kerala Ministerial Service employed in the Department.
4. Head Draftsman	Promotion from Draftsman (category 5); or recruitment by transfer from any other Service or Direct recruitment.
5. Draftsman	Direct recruitment.

(b) *Reservation of appointments.*—The rules of reservation of appointments (General Rules 14-17) shall be apply to all appointments by direct recruitment to the service.

3. *Appointing authority.*— The District Labour Officer shall be the appointing authority for posts in category 3 and the Commissioner of Labour for the posts in all other categories.

4. *Qualifications.*—No person shall be eligible for appointment to the category and by the method mentioned in columns (1) and (2) of the table below, unless he possesses the qualifications mentioned in the corresponding entry in column (3) thereof.

TABLE

Category.	*Method of recruitment.*	*Qualifications.*
1. Assistant Labour Officer, Grade II	Direct recruitment	1. Must possess the degree of B A., B.Sc. or B Com. of any recognised University. 2. A degree or diploma in Social Science recognised by the State Government. 3. Must not have completed or will not complete 28 years of age on the 1st day of July of the year in which the applications are invited by the Commission.

TABLE—(*contd.*)

Category.	*Method of recruitment*	*Qualifications.*
Assistant Labour Officer, Grade II	Recruitment by transfer	1. Must have worked for not less than 3 years as Clerk. 2. Must have passed Account Test (Lower).
Do.	Promotion	1. Must have worked for not less than 3 years as Welfare Assistant. 2. Must have passed Account Test (Lower). *Note*—In the case of a person allotted to the State of Kerala from the service under the Government of Madras consequent on the States Reorganisation, a pass in Account Test for Subordinate Officers, Part I shall be accepted as sufficient qualification in lieu of a pass in Account Test (Lower).
2. Welfare Assistant	Direct recruitment	Must possess the minimum general educational qualification of the S.S.L.C. standard. Must not have completed or will not complete 25 years of age on the 1st of July of the year in which the applications are invited by the Commission.
3. Head Draftsman	Direct recruitment; or recruitment by transfer	1. If recruited direct, must not have completed or will not complete 28 years of age on the 1st day of July of the year in which application for appointment are invited. 2. Must possess any of the following diplomas:— (a) Upper Subordinate Diploma of the College of Engineering, Guindy.

TABLE—(*contd.*)

Category.	*Method of recruitment.*	*Qualifications.*
		(b) Diploma in Civil or Mechanical Engineering of the Travancore (now Kerala) University or Diplomas recognised by Government as equivalent thereto. (c) Lower Subordinate Diploma of the College of Engineering, Guindy. (d) Licentiate in Civil or Mechanical Engineering from the Technical Institutes at Kozhikode, Trichur, Kalamassery or other equivalent courses.
Head Draftsman	Promotion	Must possess any of the qualifications mentioned below:— (a) S. M. T. (Sri Mulam Technical Institute) Overseers' course (2 years' course) (b) Draftsman's Course, College of Engineering, Guindy. (c) Group certificates under M. G. T. E. (Madras Government Technical Examinations). *Note*:—Group certificate will include all the four groups viz., Building, Drawing, Building Construction, Survey and Irrigation. Alternatively a pass in eight subjects, namely, Surveying Levelling (Higher) Applied Mechanics (Higher), Building Materials and Construction (Higher), Hydraulics and Irrigation (Higher), Building Drawing and Estimating (Higher) Earth work and Road making (Higher) Geometrical Drawing (Lower) and Mensuration (Lower).

TABLE—(contd.)

Category.	Method of recruitment.	Qualifications.
		(d) Certificate course of College of Engineering, Trivandrum (2 years course) (e) Draftsman (Civil) or Draftsman (Mechanical) Diploma obtained after 18 months' course (followed by 6 months' practical training) at the Industrial Training Centre conducted by the Government of India, Ministry of Labour at Trivandrum, Trichur, Chalakudy, Cannanore or elsewhere. (f) Pass in the Overseer course conducted by Government OR Surveying and Levelling (Higher) M. G. T. E. compulsory and any four of the following subjects under the M. G. T. E. namely:— 1. Applied Mechanics (Higher) 2. Building Materials and Construction (Higher) 3. Hydraulics and Irrigation (Higher) 4. Building Drawing and Estimating (Higher) 5. Earthwork and Roadmaking (Higher) 6. Mensuration (Lower)
4. Draftsman	Direct recruitment	1. Must not have completed or will not complete 28 years of age on the 1st day of July of the year in which applications for appointment are invited. 2. Must possess any of the qualifications mentioned below:— (a) S. M. T. (Sri Mulam Technical Institute) Overseers' Course (2 years' course).

TABLE—(*contd.*)

Category.	*Method of recruitment.*	*Qualifications.*
		(b) Draftsmans' Course, College of Engineering, Guindy.
		(c) Group Certificates under M.G.T.E.(Madras Government Technical Examinations).
		Note :—Group certificate will include all the four groups viz., Building Drawing, Building Construction, Survey and Irrigation. Alternatively a pass in eight subjects, namely, Surveying and Levelling (Higher) Applied Mechanics (Higher) Building Materials and Construction (Higher) Hydraulics and Irrigation (Higher) Building Drawing and Estimating (Higher). Earthwork and Roadmaking (Higher) Geometrical Drawing (Lower) and Mensuration (Lower).
		(d) Certificate course of College of Engineering, Trivandrum (2 years' course)
		(e) Draftsman (Civil) or Draftsman (Mechanical) Diploma obtained after 18 months' course (followed by 6 months' practical training) at the Industrial Training Centre conducted by the Government of India, Ministry of Labour at Trivandrum, Trichur, Chalakudy, Cannanore or elsewhere.
		(f) Pass in the Overseer Course conducted by Government,

TABLE—(*concld.*)

Category.	*Method of recruitment.*	*Qualifications.*
		OR Surveying and Levelling (Higher) M. G. T. E. compulsory and any four of the following subjects under the M. G. T. E. viz. 1. Applied Mechanics (Higher) 2. Building Materials and Construction (Higher) 3. Hydraulics and Irrigation (Higher) 4. Building Drawing and Estimating (Higher) 5. Earthwork and Road-making (Higher) 6. Mensuration (Lower)

5. *Probation.*—Every person appointed to any of the categories shall, from the date on which he joins duty be on probation—

(i) if recruited direct or by transfer from any other service, for a total period of two years on duty within a continuous period of three years; and

(ii) if appointed by promotion, for a total period of one year on duty within a continuous period of two years.

6 *Postings and Transfers.*—Postings and transfers of the holders of the posts in category 3 shall be made by the District Labour Officer concerned within the District. In all other cases, the postings and transfers shall be made by the Commissioner of Labour.

7. *Test.*—Every person appointed to category 2 by direct recruitment shall, within the period of probation, pass the Account Test (Lower).

By order of the Governor,

A. G. MENON,

Chief Secretary.

Kerala Gazette No. 11 dated 14th March 1961
PART 1

GOVERNMENT OF KERALA

Abstract

MEDICAL CONCESSIONS—KERALA GOVERNMENT SERVANTS' MEDICAL ATTENDANCE RULES—SPECIAL TREATMENT OUTSIDE THE STATE—REIMBURSEMENT OF EXPENDITURE—SANCTIONED.

HEALTH & LABOUR DEPARTMENT (HEALTH-E)

G. O. (P) No. 263/61/H & LD. Dated, Trivandrum, 6th March 1961.

Read:—1. G. O. (P) -29/60/H & LD dated 12-1-1960.

2. From the Director of Health Services letter No. M-2 23982/60 dated 13-7-1960 and 23-12-1960.

NOTIFICATION

In exercise of the powers conferred by the proviso to article 309 of the Constitution of India the Governor of Kerala hereby makes the following amendment to the Kerala Government Servants' Medical Attendance Rules, 1960, issued with G. O. (P) No. 29/60/Health and Labour Department dated 12-1-1960 and published in the Kerala Gazette No. 6 dated the 9th February, 1960 namely:—

AMENDMENT

In the said rules, after rule 7, the following rule shall be inserted, namely:—

7. A. Reimbursement of expenditure incurred for "Special treatment" outside the State:—

The expenditure incurred by a patient entitled to free medical attendance under these rules for any special treatment obtained by him/her outside the state will be reimbursed subject to the condition that the Director of Health Services certifies:—

(i) that there were no facilities in the State for such Special treatment,

G. 882.

(ii) that the nature of the disease warranted the special treatment outside the State by the Specialist concerned, and

(iii) the charges claimed are reasonable.

Note:—Such treatment outside the state shall be taken only with the prior sanction of the Director of Health Services on the recommendation of the Authorised Medical Attendant.

By order of the Governor,

V. V. JOSEPH,

Secretary.

To

The Director of Health Services.

The Director of Indigenous Medicine.

The Superintendent Government Presses, Trivandrum.

The Accountant General.

The Finance Department.

The Secretary, Public Service Commission (with C.L.)

The Registrar, Kerala High Court (with C. L.)

The Registrar, University of Kerala (with C. L.)

All Collectors.

All Heads of Departments.

All Departments in the Secretariat (all Sections.)

Kerala Gazette No. 11 dated 14th March 1961
PART I

GOVERNMENT OF KERALA

Health and Labour Department (Labour A)

NOTIFICATION

No. 7339/L5/61/HLD. *Dated, Trivandrum, 3rd March 1961.*

S. R. O. 50/61. Whereas the Government of Kerala are satisfied that employment in Cardamom Estates other than in a clerical capacity is a hazarduous occupation and whereas in the opinion of the Government it is necessary to provide that the Workmen's Compensation Act, 1923 (Central Act 8 of 1923), shall apply to all persons employed in the said hazarduous occupation.

Now, therefore, in exercise of the powers conferred by Sub-section (3) of section 2 of the said Act, the Government of Kerala hereby add the following to clause (XVIII) in Schedule II of the Act in its application to the State of Kerala in the manner shown below, namely: —

In clause (XVIII) of the said Schedule the word "cardamom", shall be inserted between the words "coffee" and "rubber".

By order of the Governor,
K. C. SANKARANARAYANAN,
Additional Secretary.

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Kerala Gazette No. 11 dated 14th March 1961
PART I

Health and Labour Department (Labour)

NOTIFICATION

No. L4-6611|61-1|HLD. *Dated, Trivandrum, 30th January 1961.*

The award of the Industrial Tribunal, Ernakulam in respect of the dispute between Sri K. G. Parameswaran Nair and 8 others, c|o. P. F. Thomas, Advocate, Ernakulam, and M|s. The Film Distributing Co., 70 Ft. Road, Ernakulam received by Government on 27-1-1961 is hereby published under Section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947).

By order of the Governor,

V. V. JOSEPH,
Secretary.

Before

SRI K. N. KUNJUKRISHNA PILLAI, B.A., B.L.,

Industrial Tribunal, Ernakulam

INDUSTRIAL DISPUTE No. 4 OF 1959

Between

1.	K. G. Parameswaran Nair	(Film Representative)	*Complainants*
2.	C. V. Thomas	(do.)	
3.	C. J. Varughese	(do.)	
4.	N. K. Kurian	(do.)	
5.	M. J. Mathew	(do.)	
6.	K. Ramakrishna Pillai	(do.)	
7.	V. C. Jacob	(Clerk)	
8.	K. Krishnan Namboodiri	(Checking Operator)	
9.	T. P. Thomas	(Film Representative)	

And

MESSRS. THE FILM DISTRIBUTING Co.,

70FT. ROAD, ERNAKULAM—*Opposite Party.*

Representations:—

1. Mr. P. F. Thomas, Advocate, Ernakulam—*For the complainants.*
2. Mr. George Kuriyan, B.A., B.L., Advocate, Ernakulam—*For the Opposite Party.*

AWARD.

Sri K. G. Parameswaran Nair and 8 others filed this complaint under Section 33A of the Industrial Disputes Act against the Management of the Film Distributing Co., Ernakulam (which will be mentioned as the 'Opposite Party' hereafter) and it was registered as Industrial Dispute No. 4 of 1959. The Opposite Party filed their written statement. On behalf of the complainants two witnesses were examined and on behalf of the Opposite Party two witnesses were examined. Exts. A—Y (2) were filed on behalf of the complainants and Exts. I—XX were filed on behalf of the Opposite Party.

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2. The complainants 1 to 6 and 9 were representatives of the Company and 7th was an Office Clerk and 8th was a Checking Operator. It is contended by the complainants that their services were arbitrarily terminated by notice dated 30-12-1958 to take effect from 3-1-1959. The allegation is that the complainants who are members of the All Kerala Film Distributors Employees Union were active members of the Union who took up the cause of the employees and represented the cause of the employees by a memorandum of demands on 1-3-1958. In order to enforce the demands the Union issued a strike notice on 9-9-1958 to start a general strike on 24-9-1958 and actually the strike was started and continued up to 29-9-1958. There was a compromise on some of the issues and regarding the points of disputes between the Union and the Opposite Party and another employer the dispute was referred for adjudication as Industrial Dispute No. 73 of 1958. While this dispute was pending adjudication the Opposite Party terminated the services of the complainants along with some others admittedly without fulfilling the conditions provided under Section 33. It was strongly urged on behalf of the complainants that the action of the Opposite Party in terminating the services of the complainants was an act of victimisation thereby contravening the provisions of Section 33 and hence an application under Section 33A had to be filed.

3. On behalf of the Opposite Party it was urged that the Opposite Party did not terminate the services of the complainants as made out because the termination was due to the steps adopted by the Company in effectng retrenchment due to the loss sustained by the Opposite Party. The allegation of victimisation and arbitrary denial of employment was strongly repudiated and it was contended that not only the complainants, but all similar employees of the Opposite Party were discharged from service as it was found impossible to run the business due to severe and unbearable loss sustained by the Opposite Party. Hence the termination of services was a case of retrenchment due to trade reasons for which sufficient notice was issued to the employees and the Opposite Party was prepared to pay wages in lieu of notice and also retrenchment compensation according to the provisions of the Industrial Disputes Act as stipulated in the notices issued to them on 30-12-1958. The Management has also contended that since it is a case of retrenchment the action of the Management is not attracted by Section 33 and hence there was no necessity to apply for approval and payment of one months wages as contemplated under the Section.

4. On the pleadings of the parties the following issues arise for decision

(i) Whether the application under Section 33A is maintainable?

(ii) If it is maintainable, whether termination of service was justifiable or not?

(iii) What is the relief to the complainants in either case?

5. *Issue No. I*:— In deciding the first issue the learned Advocate on behalf of the Opposite Party would argue on the basis of the Balance Sheet produced in this case that the Opposite Party was sustaining heavy loss and they were compelled to effect retrenchment which is not attracted by the provisions of Section 33. As I have pointed out above the learned Advocate on behalf of the complainants would argue

that it is not a case of retrenchment due to trade reasons, but it was an act of victimisation as there were no justifiable grounds for retrenchment of these workmen on trade reasons. The main facts for determination of this question are admitted by the parties. That is to say during the pendency of the Industrial Dispute No. 73 of 1958 the services of the complainants were terminated without fulfilling the conditions contemplated under Section 32 (2). While the Opposite Party would contend that it is a case of retrenchment the complainants would urge that it was an arbitrary act. Admittedly there is no allegation of misconduct on the part of the complainants. This being so I have to consider the question whether the impugnant action of the Management is attracted by Section 33 of the Act. Section 33 reads:"

"*Section 33 (1)*:—During the pendency of any conciliation proceedings before a Conciliation Officer or a Board or of any proceedings before a Labour Court or Tribunal or National Tribunal in respect of an industrial dispute no employer (a) in regard to any matter connected with the dispute alter to the prejudice of the workmen concerned in such dispute and conditions of service applicable to them immediately before the commencement of such proceedings or (b) for any misconduct connected with the dispute discharge or punish whether by dismissal or otherwise any workman concerned in such dispute save with the express permission in writing of the Authority before which the proceedings is pending.

(2) During the pendency of any such proceedings in respect of industrial dispute the employer may in accordance with the standing Orders applicable to a workman concerned in such dispute (a) alter in regard to any matter not connected with the dispute the conditions of service applicable to that workman immediately before the commencement of such proceedings or for any misconduct not connected with the dispute discharge or punish whether by dismissal or otherwise that workman. Provided that no such workman shall be discharged or dismissed unless he has been paid wages for one month and an application has been made by the employer to the Authority before which the proceedings is pending for approval of the action taken by the employer.

(3) Notwithstanding anything contained in sub-section (2) no employer shall during the pendency of any such proceedings in respect of an industrial disputes take any action against any protected workman concerned in such dispute—(a) by altering to the prejudice of such protected workman the conditions of service applicable to him immediately before the commencement of such proceedings or (b) by discharge or punish whether by dismissal otherwise such protected workman save with the express permission in writing of the Authority before which the proceeding is pending".

Admittedly the action of the Management does not come under sub-section (3). The only question to be considered is whether the termination comes under sub-section (1) or (2) of Section 33. In the notice isued by the Opposite Party to the complainants on 30-12-1958 they have stated that due to loss sustained by the Opposite Party the latter were compelled to terminate the services of the complainants and some others also. Even though this contention is questioned by the complainants the reason alleged was that it was a case of discharge

due to retrenchment. Retrenchment is defined under Section (2) (O) (O) of the Act. There are numerous decisions to the position that a case of retrenchment however unjustified it may be will not be attracted by Section 33 (I) or 33 (2) (a) and Mr. George Kurian would bring to my notice the decision of the Industrial Tribunal, Bombay reported in 1958 II L.L.J. 550. I have also decided previously that a case of retrenchment is not a change in the condition of service applicable to the workmen immediately before the commencement of such proceedings. Reliance is also placed on the decision of the Supreme Court reported in 1958 II L.L.J. 492 even though the facts are different. In that case it was not on an application under Section 33A, but on a decision of the Labour Court regarding a reference under Section 10 (a) of the Industrial Disputes Act that the Supreme Court decided the principles as reported in 1958 II L.L.J. 492. The position is now clear that discharge by way of retrenchment either bonafide or not is not a change in the condition of service applicable to them immediately before the commencement of such proceedings. Mr. Thomas would rely on a decision reported in 1960 I L.L.J. 8. After reading the decision it is clear to me that it is not based on an application under Section 33A, but on a dispute referred under Section 10 (a) of the Act. Mr. Thomas could not bring before my notice any decision supporting his argument that discharge by way of retrenchment is attracted by Section 33(1) (a) or (2) (a). Hence I hold that the impugnant action of the Opposite Party does not come within this sub-section. It is further argued that the action of the Management would be attracted by sub-section (b) of 33(1) or 33(2). By reading both sub-sections it can be noted that the only difference is while in 33(1) (b) the misconduct is connected with the dispute in 33(2) (b) it is not connected with the dispute. No doubt while permission has to be sought in the former case, approval is necessary in the latter. Now the question to be considered here is whether the discharge due to retrenchment even though it is questioned is a misconduct either connected or not connected with the dispute. Mr. Thomas would argue that even though the notices dated 30-12-1958 was couch in a language which might show that it was a retrenchment pure and simple the intention of the Opposite Party is to refuse employment to the complainants and he would rely on the decision of the Supreme Court in the Assam Oil Company case reported in 1960 I L.L.J. 587. He is perfectly justified when he argues that the Tribunal has to look into the reason alleged for termination of the services whether it was a bona fide one or not. I also agree with him, but my view is that while I am dealing with an application under Section 33(A) I am not justified in going into the details of the matter because my jurisdiction is circumscribed by the provisions of the relevent sections wherein I have to see whether the employer has dispensed with the services of the complainant for any misconduct connected or not with the dispute whether by dismissal or otherwise. Probably the retrenchment may be without any bona fides. But here the question to be considered is whether the action of the Management is on the basis of a misconduct connected or not connected with the dispute. If the contentions were raised in an adjudication referred under Section 10 (1), the matter is different and I could have accepted the argument of Mr. Thomas. Even assuming that the retrenchment was not bona fide, it will not make the consequential discharge a discharge for misconduct. In this

connection Mr. Thomas would rely on an observation made by me in my award in I.D. No. 50 of 1959. I.D. Nos. 50, 53 and 58 of 1959 are between 22 complainants in three batches and M|s. Aspinwall & Co. Ltd., Cochin and Mr. Thomas was appearing for one batch of complainants. A common award was published and Mr. Thomas relies on certain observations in that Award. In this Award also a similar question was raised for my decision with the only difference that the 22 workmen were discharged from service on reasons of superannuation of age and it was contended on behalf of the complainants that the termination of service of these 22 workmen was attracted by the provisions of Section 33A in as much as they were arbitrarily discharged on the alleged ground of reaching age of superannuation. In that dispute also it was urged by the Advocate on behalf of the complainants that the reason alleged was only a make belief and really some of workmen did not either reach the age of 55 or put in 30 years of service as alleged by the Management of Aspinwall & Co. I have dealt with this question at length in that Award and came to the conclusion that the impugnant action of the Management was not attracted by Section 33A and I had dismissed the applications as they were not sustainable in law.

6. In support of the argument Mr. George Kurian would raise another question that the Opposite Party was not obliged to file a petition for approval under section 33(1) or (2) or to pay one month's wages in lieu of notice. I have stated above that an employer has to fulfill two conditions under the relevant section before invoking the aid of Section 33 in terminating the services of a worker. Here it is strongly argued that the Opposite Party was not obliged in fulfilling these two conditions and hence the non-fulfillment of the conditions could not be a ground for making the Opposite Party liable for the action. That is to say when there is no prohibition to the Opposite Party according to law how can I penalise him for the non-observance of the conditions. An application under Section 33 A becomes sustainable only on the non-fulfillment of the two conditions provided in the section. When there is no necessity for the fulfillment of those conditions the question of contravention does not arise for consideration. It is clear that by enacting Section 33 the Legislature wanted to ensure a fair and satisfactory enquiry of the industrial disputes undisturbed by any action on the part of the employer or the employee which would create fresh causes for disharmony between them. During the pendency of an industrial dispute STATUS QUO should be maintained and no further element of discord should be introduced. Section 33 has undergone frequent changes and the present amendment was introduced in 1957 which came into force from 10th March, 1957. By the amendment of Section 33 from time to time its scope has been gradually narrowed down and finally it was very much limited by the amendment made by Act XXXVI of 1956. It is not my function to advert to the fact whether Section 33 as amended would be in keeping with the objective of the avowed intention of the Legislature when the Section was first incorporated in the Statute. Thus I find that the action of tho Management in terminating the services of the complainants is not attracted by the provisions of Section 33 and hence the application under Section 33A is not maintainable in law.

7. On behalf of the complainants very serious contentions are raised that the Opposite Party was actuated with a spirit of victimisation and

it was a deliberate action of arbitrary discharge and they have attempted to prove their case also. But I am completely helpless to hear these contentions in a proceedings of this kind and I may point out that if the complainants are aggrieved they can move the proper authority for the redressal of their grievances before the proper forum.

8. Mr. George Kurian would raise some other contentions namely no adjudication was pending between the parties as there was a compromise of the dispute and that definite allegations regarding victimisation were not pleaded by the complainants etc. There is no necessity to go into this question in view of my finding that the complaint is unsustainable in law. I have also not referred to documents produced in this case as there is no necessity in deciding the issue No. 1. Hence I hold that Section 33A application filed by the complainants is unsustainable in law and dismiss them.

9. I pass this award in terms specified above and it comes into effect from the date of publication in the Gazette.

K. N. KUNJUKRISHNA PILLAI,
Industrial Tribunal.

APPENDIX

Witnesses examined on behalf of the complainants:

1. WW1 Parameswaran Nair
2. WW2 A. John

Witnesses examined on behalf of the Opposite Party:

1. EW1 K. K. George
2. EW2 T. Varghese.

Exhibits marked on the side of the complainants:

1.	Ext. A	Letter dated 31-12-1958 from the Opposite Party to Sri K. G. Parameswaran Nair
2.	„ B	Copy of the notice dated 30-12-1958 from the Opposite Party to Mr. K. G. Parameswaran Nair
3.	„ C	Copy of the notice dated 8-4-1958 from the Opposite Party to the staff and representatives
4.	„ D	Letter dated 28-8-1958 from the Opposite Party to all staff and representatives
5.	„ E	Copy of the letter dated 19-9-1958 from the Opposite Party to all Representatives
6.	„ F	Circular dated 21-10-1958 from the Opposite Party to all Representatives
7.	„ G	Copy of the letter dated 7-7-1958 from P. V. George to the Opposite Party
8.	„ H	Letter dated 9-9-1958 from the Union to the Opposite Party
9.	„ J	Copy of the letter dated 14-10-1958 from the Opposite Party to M/s. Jai Lekshmi Pictures, Madras

10.	Ext.	J(1)	Copy of the letter dated 20-10-1958 from the Opposite Party to M/s. Nandi Pictures Circuit, Bangalore
11.	„	K	Letter dated 24-12-1958 from the Opposite Party to M/s. Gopalakrishna Talkies, Meppadi
12.	„	L	Copy of the letter dated 18-4-1958 from the Union to the Opposite Party
13.	„	M	Letter dated 4-12-1958 from the Opposite Party to Mr. P. X. Devassy
14.	„	N	Letter dated 9-1-1959 from the Opposite Party to the Union.
15.	„	P	Malayala Manorama Daily dated 17-6-1960
16.	„	Q	Express Daily dated 3-6-1960
17.	„	R	A book containing the documents produced by the complainants
18.	„	S	Letter dated 22-3-1960 from the Opposite Party to Sri A. John
19.	„	T	Letter dated 12-4-1960 from the Opposite Party to M/s. Quilon Theatres, Quilon
20.	„	W	Letter dated 21-5-1960 from the Opposite Party to M/s. Sri Rama Talkies
21.	„	Y(1)	Copy of the letter dated 28-4-1960 from the Opposite Party to the Film Distributing Co., Tiruvella
22.	„	Y(2)	Letter dated 28-4-1960 from the Film Co. Productions to Sri A. John.

Exhibits marked on the side of the Opposite Party:

1.	Ext.	I	Copy of the notice dated 30-12-1958 from the Opposite Party to workmen.
2.	„	II	Copy of the notice dated 30-12-1958 from the Opposite Party.
3.	„	III	Notice dated 30-12-1958 from the Opposite Party.
4.	„	IV (Series)	Receipts.
5.	„	V	Profit & Loss Account for the period July 53 to June 1957 of the Opposite Party.
6.	„	VI	Profit & Loss Account for July 1958 to December 1958.
7.	„	VII	Copy of the Notice dated 25-3-1959 from the Opposite Party.
8.	„	VIII	Copy of the Notice dated 25-3-1959 from the Opposite Party.
9.	„	IX	Copy of the Notice dated 25-5-1959 from the Opposite Party.

10.	Ext.	X	Copy of the notice dated 29-6-1959 by the Opposite Party.
11.	,,	XI	Notice dated 25-7-1959 from the Opposite Party to Mr. T. O. Mathew.
12.	,,	XII (Series)	Receipts 3 in Nos.
13.	,,	XIII	Receipt dated 7-8-1959 from K. A. Bangera.
14.	,,	XIV	Receipt dated 3-1-1959 from R. C. Nair.
15.	,,	XV	Receipt dated 26-2-1959 from P. V. George.
16.	,,	XVI	Letter dated 3-1-1959 from R. C. Nair to the Opposite Party.
17.	,,	XVII	Letter dated 17-2-1959 from P. V. George to the Opposite Party.
18.	,,	XVIII	Profit & Loss Account for the year 1957-58 (1-7-1957 to 30-6-1958) of the Opposite Party.
19.	,,	XIX (Series)	Profit & Loss Account for the year ended 30th June, 1958 and Balance Sheet as at 30th June, 1958.
20.	,,	XX	Copy of the Memorandum of Settlement dated 29-9-1958.

Health and Labour Department (Labour)

NOTIFICATION

No. L4-14786/61-1/HLD.

Dated, Trivandrum, 27th February 1961.

The award of the Industrial Tribunal, Ernakulam in respect of the dispute between the Management of Mar Thomas Estate, Thodupuzha, and their workmen represented by the Estate Staffs Union of South India, Chetty Street, Kottayam, received by Government on 25-2-1961 is hereby published under Section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947).

By order of the Governor,
K. C. SANKARANARAYANAN,
Additional Secretary.

Before

SHRI K. N. KUNJUKRISHNA PILLAI, B. A., B. L.,
Industrial Tribunal, Ernakulam.

INDUSTRIAL DISPUTE No. 45 OF 1959.

Between

THE MANAGEMENT OF
MARTHOMA ESTATE, THODUPUZHA

And

THE WORKMEN OF
THE ABOVE ESTATE REPRESENTED BY THE ESTATE STAFFS UNION OF SOUTH INDIA, THEYYIL BUILDINGS CHETTY STREET, KOTTAYAM.

Representatives:

1. Sri K. V. R. Shenoi of M/s. Menon and Pai, Advocates, Ernakulam. *For the Management.*
2. Sri N. Krishnan Kutty, Advocate, Trivandrum. *For the Union.*

AWARD

This industrial dispute between the above parties was referred by Government in their Order No. 33062/L4/59-1 dated 12-6-1959 to the Industrial Tribunal, Ernakulam where it was registered as Industrial Dispute No. 45 of 1959. The Union filed their statement on 4-7-1959 and the Management filed their reply statement on 20-7-1959 and a rejoinder was filed by the Union on 1-8-1959. The Union examined one witness and filed Exts. A and the Management examined one witness and filed Exts. I-VIII. The only issue referred for adjudication is: "Dismissal of Sri K. Bhaskaran Nair, Conductor, Marthoma Estate, Thodupuzha."

2. The contention of the Union was that the worker was dismissed from service arbitrarily as he raised certain disputes regarding his conditions of service. On the other hand the Management would contend that for proved misconduct the worker was dismissed from service Sri Bhaskaran Nair was a Conductor employed in the Estate for about 11 years. On 18-12-1958 he was served with a show cause notice for wrongfully cutting and removing five arecanut trees standing in the estate. He has submitted his explanation on 22-11-958 in which he has admitted the fact of cutting on the ground that he was authorised to remove damaged arecanut trees Another show cause notice was served on him on 16-1-1959 for the same misconduct in cutting two more arecanut trees. Explanation was offered on 21-1-1959 and an enquiry was held on 27-1-1959 and be was dismissed from service on 30-1-1959. The enquiry proceedings were filed in the case.

3. I have gone through the enquiry proceedings dated 5th January, 1959 and also of 27th January, 1959. It was conducted by Sri Kora Chandy, wholetime Director of the Marthoma Rubber Estate. This enquiry is attacked on the ground that the evidence of the witnesses exam ned on behalf of the Ma agement did not warrant a finding against the worker. Further the presence of the legal adviser to the Management was disadvantageous to the worker. The second enquiry on 27th January, 1959, was to fill up the gap created by the first enquiry. From the evidence it is clear that there is no substance in the allegations advanced by the Union questioning the fairness of the enquiry. The contention that Ext. II was not brought to the notice of the worker is not a matter touching the validity of the enquiry.

4. Further the worker himself admits that he has cut and removed some arecanut trees. According to him he has got authorisation to do so from the visiting Director. Even if there is such an instruction he has to get the permission then and there from the Head of the Estate before actually cutting and removing the trees. Sri N. Krishnan Kutty on behalf of the Union have brought to my notice that what the worker has done in cutting five arecanut trees was within his legitimate duties. On the other hand it is contended that the Conductor has no ight to cut and remove the arecanut trees even if they were damaged, but he had to do so after getting the permission from the Manager of the Estate. From the evidence it is clear that damaged arecanut trees has to be removed from time to time, but that ought to be done only after getting the necessary instructions from the Manager of the Estate. Thus the worker has done an act for which he is not competent to do and according to the Management it is a misconduct. The allegation that he was dismissed due to his trade union activities is not supported by evidence. The enquiry proceedings show that it was a fair enquiry and hence I am not inclined to interfere in the decision of the Management except that the Order of dismissal should be converted into an Order of discharge on the ground that the worker was in service for about 11 years and a

dismissal from service would be a bar for him to get future employment. In consideration of his past services the Management would not hesitate to give him an ex-gratia payment of Rs. 500 and thus I hold that the worker should be deemed to be discharged from service and the Management should pay him Rs. 500 as ex-gratia.

5. I pass this award in terms specified above and this comes into effect from the date of its publication in the Government Gazette.

Ernakulam,
31-12-1960.

K. N. KUNJUKRISHNA PILLAI,
Industrial Tribunal.

APPENDIX.

Witness examined on behalf of the Management :—

EW1 Kora Chandy.

Witness examined on behalf of the Union:—

WW1 K. Bhaskaran Nair.

Exhibits marked on behalf of the Management : —

Ext I Daily Report Book of the Estate for the period from 16-5-1958.

" II Daily Report Book of the Estate for the period from 1-3-1957.

" III (Series) Copy of the letter dated 18th December 1958 from the Estate to Sri K. Bhaskaran Nair and connected papers.

" IV Copy of the letter dated 4-2-1959 from the Union to Mr. Korah Chandy.

" V Copy of the letter dated 6-2-1959 from the Estate to the Union.

" VI Copy of the letter dated 10-2-1959 from the Union to the Management.

" VII General Correspondence Book of the Estate.

" VIII Copy of Joint Standing Orders for Staff employed on Estates.

Exhibit marked on behalf of the Union:—

Ext. A. A file of records relating to the dispute kept by the Union.